PENDING CLAIMS AS AMENDED

Please amend the claims as follows:

1. (Currently Amended)   A method to determine a next data rate in a mobile station of a wireless system, comprising:

receiving a congestion indicator <u>from a base station, the congestion indicator includes at least one data bit</u>; and

generating the next data rate in the mobile station as a function of <u>the</u> data rate history and <u>the</u> history of the congestion indicator of the mobile station.

2. (Previously Presented)   The method as in claim 1, wherein generating the next data rate further comprises:

comparing at least one previous data rate to a target data rate for the mobile station; and

in response to a first result of comparing determining the next data rate by adjusting at least one data rate.

3. (Previously Presented)   The method of claim 1, wherein adjusting the at least one previous data rate performs a statistical analysis.

4. (Previously Presented)   The method of claim 1, wherein generating the next data rate further comprises:

counting a number of consecutive same value congestion indicators; and

if the number of consecutive same value congestion indicators is less than a predetermined maximum number, determining the next data rate by maintaining the at least one previous data rate.

5. (Previously Presented)   The method as in claim 4, wherein generating the next data rate further comprises:

if the number of consecutive same value congestion indicators is equal to or greater than the maximum number, determining the next data rate by adjusting the at least one previous data rate.

6. (Previously Presented)   The method as in claim 5, wherein for a first congestion condition if the previous data rate is greater than the target data rate, adjusting comprises decreasing.

7. (Previously Presented)   The method as in claim 6, wherein for a second congestion condition if the previous data rate is less than the target data rate, adjusting comprises increasing.

8. (Previously Presented)   The method as in claim 1, wherein the next data rate is generated at the mobile station and is independent of other mobile stations.

9. (Previously Presented)   The method as in claim 1, wherein the maximum number is predetermined.

10. (Previously Presented)   The method as in claim 1, wherein the congestion indicator comprises multiple bits.

11. (Previously Presented)   The method as in claim 10, wherein at least one of the multiple bits corresponds to a adjustment indicator, and at least one of the multiple bits corresponds a target indicator, the method further comprising:
    for a first value of the target indicator, adjusting at least one previous data rate according to the adjustment indicator; and
    for a second value of the target indicator, comparing at least one previous data rate to a target rate for the mobile station, wherein in response to a first result of comparing determining the next data rate by adjusting at least one previous data rate according to the adjustment indicator.

12. (Previously Presented)   The method as in claim 11, wherein for a first value of the adjustment indicator adjusting at least one previous data rate according to the adjustment indicator comprises increasing at least one previous data rate, and

wherein for a second value of the adjustment indicator adjusting at least one previous data rate according to the adjustment indicator comprises decreasing at least one previous data rate.

13. (Currently Amended)   A mobile station apparatus, comprising;

means for receiving a congestion indicator and determining a congestion condition therefrom, the congestion indicator being received from a base station and includes at least one data bit; and

data rate control means for determining a next data rate for the mobile station as a function of [[a]] the history of the congestion indicator[[s]] and as a function of the data rate history of the mobile station.

14. (Previously Presented)   The apparatus as in claim 13, further comprising:

comparison means for comparing a previous data rate to a target rate for the mobile station,

wherein the data rate control means generates a next data rate by adjusting the previous data rate in response to a first result of comparing the previous data rate to the target data rate.

15. (Previously Presented)   The apparatus as in claim 13, further comprising:

counting means for counting a number of consecutive same value congestion indicators,

wherein the data rate control means generates the next data rate by maintaining the previous data rate in response to a second result of comparing the previous data rate to the target data rate when the number of consecutive same value control indicators is less than a maximum number.

16. (Previously Presented) The apparatus as in claim 15, wherein the data rate control means generates the next data rate by adjusting the previous data rate when the number of consecutive same value control indicators is equal to or greater than the maximum number.

17. (New) An apparatus for determining a next data rate of an access terminal, comprising:

a receive circuit for receiving a congestion indicator having at least one data bit from an access network; and

a data rate adjustment circuit coupled to the receive circuit, the data rate adjustment circuit being configured to generate the next data rate in the access terminal as a function of the data rate history and the history of the congestion indicator of the access terminal.

18. (New) The apparatus as in claim 17 further comprising a comparator configured to compare a previous data rate to a target data rate for the access terminal, the comparator being coupled to the data rate adjustment circuit, wherein the data rate adjustment circuit being configured to generate the next data rate by adjusting the previous data rate in response to a result of comparing the previous data rate to the target rate.

19. (New) The apparatus as in claim 18 further comprising a counter configured to count the number of consecutive same value congestion indicators, wherein the data rate adjustment circuit being configured to generate the next data rate by maintaining the previous data rate in response to the result of comparing the previous data rate to the target rate when the number of consecutive same value congestion indicators is less than a predetermined number.

20. (New) The apparatus as in claim 19 wherein the data rate adjustment circuit being configured to generate the next data rate by adjusting the previous data rate when the number of consecutive same value congestion indicators is equal to or greater than the predetermined number.